

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ERIKA BAUMGARTNER, DANIEL
LOPEZ and SHAUN KRAMM, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

YOTTA TECHNOLOGIES INC., EVOLVE
BANK & TRUST,

Defendants.

Case No. 1:24-cv-05535-AKH

**DEFENDANT EVOLVE BANK & TRUST’S NOTICE OF
MOTION TO DISMISS THE COMPLAINT**

PLEASE TAKE NOTICE, that upon the Memorandum of Law in Support of Defendant Evolve Bank & Trust’s Motion to Dismiss the Complaint, dated October 22, 2024, the Declaration of Harry Alan Word, Jr., in Support of Defendant Evolve Bank & Trust’s Motion to Dismiss the Complaint, dated October 22, 2024, and all exhibits attached thereto, the Declaration of Marc R. Shapiro in Support of Defendant Evolve Bank & Trust’s Motion to Dismiss the Complaint, dated October 22, 2024, and all exhibits attached thereto, and upon all the papers and proceedings had herein, Defendant Evolve Bank & Trust (“Evolve”) will move this Court before the Honorable Alvin K. Hellerstein, at the United States Courthouse for the Southern District of New York, Courtroom 14D, 500 Pearl Street, New York, NY 10007, on a date and at a time to be designated by the Court, for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing the Complaint for failure to state a claim, and for other and further relief as the Court deems just and proper.

New York, New York
October 22, 2024

Respectfully submitted,

ORRICK HERRINGTON & SUTCLIFFE LLP

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